

House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 65

HOUSE BILL 2113

AN ACT

AMENDING SECTION 36-2939, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA
LONG-TERM CARE SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-2939, Arizona Revised Statutes, is amended to
3 read:

4 36-2939. Long-term care system services

5 A. The following services shall be provided by the program contractors
6 to members determined to need institutional services pursuant to this
7 article:

8 1. Nursing facility services other than services in an institution for
9 tuberculosis or mental disease.

10 2. Notwithstanding any other law, behavioral health services if these
11 services are not duplicative of long-term care services provided as of
12 January 30, 1993 under this subsection and are authorized by the program
13 contractor through the long-term care case management system. If the
14 administration is the program contractor, the administration may authorize
15 these services.

16 3. Hospice services. For the purposes of this paragraph, "hospice"
17 means a program of palliative and supportive care for terminally ill members
18 and their families or caregivers.

19 4. Case management services as provided in section 36-2938.

20 5. Health and medical services as provided in section 36-2907.

21 B. In addition to the services prescribed in subsection A of this
22 section, the department, as a program contractor, shall provide the following
23 services if appropriate to members who are defined as developmentally
24 disabled pursuant to section 36-551 and are determined to need institutional
25 services pursuant to this article:

26 1. Intermediate care facility for mental retardation services for a
27 member who has a developmental disability as defined in section 36-551. For
28 purposes of this article, such facility shall meet all federally approved
29 standards and may only include the Arizona training program facilities, a
30 state owned and operated service center, state owned or operated community
31 residential settings or existing licensed facilities operated by this state
32 or under contract with the department on or before July 1, 1988.

33 2. Home and community based services which may be provided in a
34 member's home or an alternative residential setting as prescribed in section
35 36-591 or other behavioral health alternative residential facilities licensed
36 by the department of health services and approved by the director of the
37 Arizona health care cost containment system administration and which may
38 include:

39 (a) Home health, which means the provision of nursing services or home
40 health aide services or medical supplies, equipment and appliances, which are
41 provided on a part-time or intermittent basis by a licensed home health
42 agency within a member's residence based on a physician's orders and in
43 accordance with federal law. Physical therapy, occupational therapy, or
44 speech and audiology services provided by a home health agency may be
45 provided in accordance with federal law. Beginning on July 1, 1998, home

1 health agencies shall comply with federal bonding requirements in a manner
2 prescribed by the administration.

3 (b) Home health aide, which means a service that provides intermittent
4 health maintenance, continued treatment or monitoring of a health condition
5 and supportive care for activities of daily living provided within a member's
6 residence.

7 (c) Homemaker, which means a service that provides assistance in the
8 performance of activities related to household maintenance within a member's
9 residence.

10 (d) Personal care, which means a service that provides assistance to
11 meet essential physical needs within a member's residence.

12 (e) Developmentally disabled day care, which means a service that
13 provides planned care supervision and activities, personal care, activities
14 of daily living skills training and habilitation services in a group setting
15 during a portion of a continuous twenty-four hour period.

16 (f) Habilitation, which means the provision of physical therapy,
17 occupational therapy, speech or audiology services or training in independent
18 living, special developmental skills, sensory-motor development, behavior
19 intervention, and orientation and mobility in accordance with federal law.

20 (g) Respite care, which means a service that provides short-term care
21 and supervision available on a twenty-four hour basis.

22 (h) Transportation, which means a service that provides or assists in
23 obtaining transportation for the member.

24 (i) Other services or licensed or certified settings approved by the
25 director.

26 C. In addition to services prescribed in subsection A of this section,
27 home and community based services may be provided in a member's home, in an
28 adult foster care home as prescribed in section 36-401, in an assisted living
29 home or ~~residential unit~~ ASSISTED LIVING CENTER as defined in section 36-401
30 or in a level one or level two behavioral health alternative residential
31 facility approved by the director by program contractors to all members who
32 are not defined as developmentally disabled pursuant to section 36-551 and
33 are determined to need institutional services pursuant to this
34 article. MEMBERS RESIDING IN AN ASSISTED LIVING CENTER MUST BE PROVIDED THE
35 CHOICE OF SINGLE OCCUPANCY. The director may also approve other licensed
36 residential facilities as appropriate on a case by case basis for traumatic
37 brain injured members. Home and community based services may include the
38 following:

39 1. Home health, which means the provision of nursing services or home
40 health aide services or medical supplies, equipment and appliances, which are
41 provided on a part-time or intermittent basis by a licensed home health
42 agency within a member's residence based on a physician's orders and in
43 accordance with federal law. Physical therapy, occupational therapy, or
44 speech and audiology services provided by a home health agency may be
45 provided in accordance with federal law. Beginning on July 1, 1998, home

1 health agencies shall comply with federal bonding requirements in a manner
2 prescribed by the administration.

3 2. Home health aide, which means a service that provides intermittent
4 health maintenance, continued treatment or monitoring of a health condition
5 and supportive care for activities of daily living provided within a member's
6 residence.

7 3. Homemaker, which means a service that provides assistance in the
8 performance of activities related to household maintenance within a member's
9 residence.

10 4. Personal care, which means a service that provides assistance to
11 meet essential physical needs within a member's residence.

12 5. Adult day health, which means a service that provides planned care
13 supervision and activities, personal care, personal living skills training,
14 meals and health monitoring in a group setting during a portion of a
15 continuous twenty-four hour period. Adult day health may also include
16 preventive, therapeutic and restorative health related services that do not
17 include behavioral health services.

18 6. Habilitation, which means the provision of physical therapy,
19 occupational therapy, speech or audiology services or training in independent
20 living, special developmental skills, sensory-motor development, behavior
21 intervention, and orientation and mobility in accordance with federal law.

22 7. Respite care, which means a service that provides short-term care
23 and supervision available on a twenty-four hour basis.

24 8. Transportation, which means a service that provides or assists in
25 obtaining transportation for the member.

26 9. Home delivered meals, which means a service that provides for a
27 nutritious meal containing at least one-third of the recommended dietary
28 allowance for an individual and which is delivered to the member's residence.

29 10. Other services or licensed or certified settings approved by the
30 director.

31 D. The amount of money expended by program contractors on home and
32 community based services pursuant to subsection C of this section shall be
33 limited by the director in accordance with the federal monies made available
34 to this state for home and community based services pursuant to subsection
35 C of this section. The director shall establish methods for the allocation
36 of monies for home and community based services to program contractors and
37 shall monitor expenditures on home and community based services by program
38 contractors.

39 E. Notwithstanding subsections A, B, C and F of this section, no
40 service may be provided that does not qualify for federal monies available
41 under title XIX of the social security act or the section 1115 waiver.

42 F. In addition to services provided pursuant to subsections A, B and
43 C of this section, the director may implement a demonstration project to
44 provide home and community based services to special populations, including
45 disabled persons who are eighteen years of age or younger, medically fragile,

1 reside at home and would be eligible for supplemental security income for the
2 aged, blind or disabled or the state supplemental payment program, except for
3 the amount of their parent's income or resources. In implementing this
4 project, the director may provide for parental contributions for the care of
5 their child.

6 G. Subject to section 36-562, the administration by rule shall
7 prescribe a deductible schedule for programs provided to members who are
8 eligible pursuant to subsection B of this section, except that the
9 administration shall implement a deductible based on family income. In
10 determining deductible amounts and whether a family is required to have
11 deductibles, the department shall use adjusted gross income. Families whose
12 adjusted gross income is at least four hundred per cent and less than or
13 equal to five hundred per cent of the federal poverty level GUIDELINES shall
14 have a deductible of two per cent of adjusted gross income. Families whose
15 adjusted gross income is more than five hundred per cent of adjusted gross
16 income shall have a deductible of four per cent of adjusted gross income.

17 Only families whose children are under eighteen years of age and who are
18 members who are eligible pursuant to subsection B of this section may be
19 required to have a deductible for services. For the purposes of this
20 subsection, "deductible" means an amount a family, whose children are under
21 eighteen years of age and who are members who are eligible pursuant to
22 subsection B of this section, pays for services, other than departmental case
23 management and acute care services, before the department will pay for
24 services other than departmental case management and acute care services.

APPROVED BY THE GOVERNOR APRIL 8, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2004.

Passed the House February 24, 2004

by the following vote: 55 Ayes,

1 Nays, 4 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate April 1, 2004

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

Ken Bennett
President of the Senate

Charmine Ballington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

5th day of April, 2004

at 2:40 o'clock P. M.

Jennifer Upbatta
Secretary to the Governor

Approved this 8 day of

April, 2004,

at 4³⁰ o'clock P. M.

Jt. Neg. Lt.
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 9 day of April, 2004,

at 10:45 o'clock A. M.

Janice K. Brewer
Secretary of State

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